IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.1167 of 2007 (O&M)
Date of Decision: 19.04.2007

Shashi Kant ..Appellant

Vs.

M/s Hyderabad Industries Ltd. & Ors. ..Respondents

Coram: Hon'ble Mr. Justice Vinod K.Sharma

Present: Mr.Sandeep Chhabra, Advocate,
for the appellant.

Vinod K.Sharma,J. (Oral)

CM No.3249-C of 2007

For the reasons stated in the application delay of 35 days in filing the appeal is condoned.

Application stands disposed of.

RSA No.1167 of 2007

This regular second appeal has been filed against the judgment and decree passed by the learned District Judge, Faridabad accepting the appeal filed by the respondent-defendants against the judgment and decree passed by the learned trial court vide which suit for declaration filed by the plaintiff-appellant was decreed for declaration to the effect that the plaintiff was entitled to claim voluntary retirement under the

Scheme.

Learned Trial Court has relied upon the judgment of Hon'ble Supreme Court in the case of **Manjushree Pathak Vs. Assam Industrial Development Corporation Limited 2004 Services Cases Today 306** and the judgment of Hon'ble Karnataka High court in the case of **Adhisesha Reddy Vs. Bharat Gold Mines Ltd. 1992 (68) FLR 917.** However, learned lower appellate court keeping in view the fact that the defendant-respondent was a private company and the Scheme stipulated that the acceptance of offer of voluntary retirement was at the whole discretion of Management, non-suited the plaintiff-appellant and allowed the appeal.

Learned counsel for the appellants contends that even though the discretion was with the Management to accept or reject the voluntary Scheme the same had to be accepted judiciously and request could not be arbitrarily rejected as that would amount to the violation of Article 14 of the Constitution of India. The learned lower appellate court has gone into the matter in detail and came to the conclusion that as the respondent is private company and the only remedy with the appellant-plaintiff was to file a suit for damage and recovery, if any, and the suit for mandatory injunction was not competent. No ground to interfere with the finding recorded by the learned lower appellate court is made out.

Dismissed.

April 19,2007 **(Vinod K.Sharma)**
rp **Judge**